

Act must show his or her actual residence address even though it is not in the United States.

(b) *Loss of residence status.* An alien commuter who has been out of regular employment in the United States for a continuous period of 6 months shall be deemed to have lost residence status, notwithstanding temporary entries in the interim for other than employment purposes. An exception applies when employment in the United States was interrupted for reasons beyond the individual's control other than lack of a job opportunity or the commuter can demonstrate that he or she has worked 90 days in the United States in the aggregate during the 12-month period preceding the application for admission into the United States. Upon loss of status, the alien's permanent resident card becomes invalid and must be surrendered to an immigration officer.

(c) *Eligibility for benefits under the immigration and nationality laws.* Until he or she has taken up residence in the United States, an alien commuter cannot satisfy the residence requirements of the naturalization laws and cannot qualify for any benefits under the immigration laws on his or her own behalf or on behalf of his or her relatives other than as specified in paragraph (a) of this section. When an alien commuter takes up residence in the United States, he or she shall no longer be regarded as a commuter. He or she may facilitate proof of having taken up such residence by notifying the Service as soon as possible, preferably at the time of his or her first reentry for that purpose. Application for issuance of a new Permanent Resident Card to show that he or she has taken up residence in the United States shall be made in accordance with 8 CFR 264.5.

[62 FR 10346, Mar. 6, 1997, as amended at 63 FR 70315, Dec. 21, 1998; 76 FR 53786, Aug. 29, 2011]

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

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AUTHORITY: 8 U.S.C. 1101 and note, 1102, 1103, 1182 and note, 1184, 1187, 1223, 1225, 1226, 1227, 1255, 1359; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458); 8 CFR part 2.

Section 212.1(q) also issued under section 702, Public Law 110–229, 122 Stat. 754, 854.

SOURCE: 17 FR 11484, Dec. 19, 1952, unless otherwise noted.

§212.0 Definitions.

For purposes of §212.1 and §235.1 of this chapter:

Adjacent islands means Bermuda and the islands located in the Caribbean Sea, except Cuba.

Cruise ship means a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire, making a voyage lasting more than 24 hours any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories.

Ferry means any vessel operating on a pre-determined fixed schedule and route, which is being used solely to provide transportation between places that are no more than 300 miles apart

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and which is being used to transport passengers, vehicles, and/or railroad cars.

Pleasure vessel means a vessel that is used exclusively for recreational or personal purposes and not to transport passengers or property for hire.

United States means “United States” as defined in section 215(c) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1185(c)).

U.S. citizen means a United States citizen or a U.S. non-citizen national.

United States qualifying tribal entity means a tribe, band, or other group of Native Americans formally recognized by the United States Government which agrees to meet WHTI document standards.

[73 FR 18415, Apr. 3, 2008]

§212.1 Documentary requirements for nonimmigrants.

A valid unexpired visa and an unexpired passport, valid for the period set forth in section 212(a)(26) of the Act, shall be presented by each arriving nonimmigrant alien except that the passport validity period for an applicant for admission who is a member of a class described in section 102 of the Act is not required to extend beyond the date of his application for admission if so admitted, and except as otherwise provided in the Act, this chapter, and for the following classes:

(a) *Citizens of Canada or Bermuda, Bahamian nationals or British subjects resident in certain islands.* (1) *Canadian citizens.* A visa is generally not required for Canadian citizens, except those Canadians that fall under nonimmigrant visa categories E, K, S, or V as provided in paragraphs (h), (l), and (m) of this section and 22 CFR 41.2. A valid unexpired passport is required for Canadian citizens arriving in the United States, except when meeting one of the following requirements:

(i) *NEXUS Program.* A Canadian citizen who is traveling as a participant in the NEXUS program, and who is not otherwise required to present a passport and visa as provided in paragraphs (h), (l), and (m) of this section and 22 CFR 41.2, may present a valid unexpired NEXUS program card when using a NEXUS Air kiosk or when entering the United States from contiguous ter-

ritory or adjacent islands at a land or sea port-of-entry. A Canadian citizen who enters the United States by pleasure vessel from Canada under the remote inspection system may present a valid unexpired NEXUS program card.

(ii) *FAST Program.* A Canadian citizen who is traveling as a participant in the FAST program, and who is not otherwise required to present a passport and visa as provided in paragraphs (h), (l), and (m) of this section and 22 CFR 41.2, may present a valid unexpired FAST card at a land or sea port-of-entry prior to entering the United States from contiguous territory or adjacent islands.

(iii) *SENTRI Program.* A Canadian citizen who is traveling as a participant in the SENTRI program, and who is not otherwise required to present a passport and visa as provided in paragraphs (h), (l), and (m) of this section and 22 CFR 41.2, may present a valid unexpired SENTRI card at a land or sea port-of-entry prior to entering the United States from contiguous territory or adjacent islands.

(iv) *Canadian Indians.* If designated by the Secretary of Homeland Security, a Canadian citizen holder of a Indian and Northern Affairs Canada (“INAC”) card issued by the Canadian Department of Indian Affairs and North Development, Director of Land and Trust Services (“LTS”) in conformance with security standards agreed upon by the Governments of Canada and the United States, and containing a machine readable zone and who is arriving from Canada may present the card prior to entering the United States at a land port-of-entry.

(v) *Children.* A child who is a Canadian citizen arriving from contiguous territory may present for admission to the United States at sea or land ports-of-entry certain other documents if the arrival meets the requirements described below.

(A) *Children Under Age 16.* A Canadian citizen who is under the age of 16 is permitted to present an original or a copy of his or her birth certificate, a Canadian Citizenship Card, or a Canadian Naturalization Certificate when arriving in the United States from contiguous territory at land or sea ports-of-entry.